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TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

Section

R12-15-704. Certificate of Assured Water Supply

R12-15-722. Consistency with Management Goal

R12-15-723. Extinguishment Credits

R12-15-725. Pinal AMA - Groundwater Allowance and Extinguishment Credits Calculation

R12-15-704. Certificate of Assured Water Supply

- A. An application for a certificate shall be filed by the current owner of the land that is the subject of the application. Potential purchasers and affiliates may also be included as applicants.
- B. An applicant for a certificate shall submit an application on a form prescribed by the Director with the fee required by R12-15-730 and provide the following:
 - 1. One of the following forms of proof of ownership for each applicant to be listed on the certificate:
 - a. For an applicant that is the current owner, one of the following:
 - i. A title report, condition of title report, limited search title report, or recorded deed, dated within 90 days of the date the application is filed, demonstrating that the applicant is the owner of the land that is the subject of the application; or
 - ii. Evidence that the CAGR has reviewed and approved evidence that the applicant is the owner of the land that is the subject of the application;
 - b. For an applicant that is a potential purchaser, evidence of a purchase agreement; or
 - c. For an applicant that is an affiliate of another applicant, a certification by the other applicant of the affiliate status;
 - 2. A plat of the subdivision;
 - 3. An estimate of the 100-year water demand for the subdivision;
 - 4. A list of all proposed sources of water that will be used by the subdivision;
 - 5. Evidence that the criteria in subsections (F) or (G) of this Section are met; and
 - 6. Any other information that the Director reasonably determines is necessary to decide whether an assured water supply exists for the subdivision.
- C. Each applicant shall sign the application for a certificate. If an applicant is not a natural person, the applicant's authorized officer, managing member, partner, trust officer, trustee, or other person who performs similar decision-making functions for the applicant shall sign the application. If an applicant submits a letter, signed by the applicant and dated within 90 days of the date the application is submitted, authorizing a representative to submit applications for permits regarding the land to be included in the certificate, the authorized representative may sign the application on the applicant's behalf.

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- D. The Director shall give public notice of an application for a certificate as provided in A.R.S. § 45-578.
- E. After a complete application is submitted, the Director shall review the application and associated evidence to determine:
 - 1. The estimated water demand of the subdivision;
 - 2. The amount of the groundwater allowance for the subdivision, as provided in R12-15-724 through R12-15-727; and
 - 3. Whether the applicant has demonstrated all of the requirements in subsection (F) or subsection (G) of this Section.
- F. Except as provided in subsection (G) of this Section, the Director shall issue a certificate if the applicant demonstrates all of the following:
 - 1. Sufficient supplies of water are physically available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-716;
 - 2. Sufficient supplies of water are continuously available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-717;
 - 3. Sufficient supplies of water are legally available to meet the estimated water demand of the subdivision, according to the criteria in R12-15-718;
 - 4. The sources of water are of adequate quality, according to the criteria in R12-15-719;
 - 5. The applicant has the financial capability to construct adequate delivery, storage, and treatment works for the subdivision, according to the criteria in R12-15-720;
 - 6. The proposed use of groundwater withdrawn within an AMA is consistent with the management plan in effect at the time of the application, according to the criteria in R12-15-721; and
 - 7. The proposed use of groundwater withdrawn within an AMA is consistent with the achievement of the management goal, according to the criteria in R12-15-722.
- G. If the Director previously issued a certificate for the subdivision, the Director shall issue a new certificate to the applicant if the applicant demonstrates that all of the requirements in subsection (F) are met or that all of the following apply:
 - 1. Any changes to the plat for which the previous certificate was issued are not material, according to the criteria in R12-15-708;
 - 2. If groundwater is a proposed source of supply for the subdivision, the proposed groundwater withdrawals satisfied the physical availability requirements in effect at the time the complete and correct application for the previous certificate was submitted;
 - 3. Any proposed sources of water, other than groundwater, are physically available to satisfy the estimated water demand that will not be satisfied with groundwater, according to the criteria in R12-15-716;
 - 4. Any proposed sources of water other than groundwater are continuously available to satisfy the estimated water demand that will not be satisfied with groundwater, according to the criteria in R12-15-717;
 - 5. The proposed uses of groundwater withdrawn within an AMA were consistent with the achievement of the management goal according to the criteria in effect at the time the

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- complete and correct application for the previous certificate was submitted; and
- 6. The applicant demonstrates that the requirements in subsections (F)(3) through (F)(6) of this Section are met.
- H.** Before issuing a certificate, the Director shall classify the certificate for the purposes of R12-15-705 and R12-15-706 as follows:
 - 1. Type A certificate. The Director shall classify the certificate as a Type A certificate if the applicant meets the criteria in R12-15-720(A)(1) and all of the subdivision's estimated water demand will be met with one or more of the following:
 - a. Groundwater served by a proposed municipal provider pursuant to an existing service area right;
 - b. Groundwater served by a proposed municipal provider pursuant to a pending service area right, if the proposed municipal provider currently holds or will hold the well permit;
 - c. CAP water served by a municipal provider pursuant to the proposed municipal provider's non-declining, long-term municipal and industrial subcontract;
 - d. Surface water served by a proposed municipal provider pursuant to the proposed municipal provider's surface water right or claim;
 - e. Effluent owned and served by a proposed municipal provider; or
 - f. A Type 1 grandfathered right appurtenant to the land on which the groundwater will be used and held by a proposed municipal provider.
 - 2. Type B certificate. The Director shall classify all certificates that do not meet the requirements of subsection (H)(1) of this Section as Type B certificates.
- I.** The Director shall review an application for a certificate pursuant to the licensing time-frame provisions in R12-15-401.
- J.** An owner of six or more lots is not required to obtain a certificate if all of the following apply:
 - 1. The lots comprise a subset of a subdivision for which:
 - a. A plat was recorded before 1980; or
 - b. A certificate was issued before February 7, 1995;
 - 2. No changes were made to the plat since February 7, 1995; and
 - 3. Water service is currently available to each lot.
- K.** A new owner of all or a portion of a subdivision for which a plat has been recorded is not required to obtain a certificate if all of the following apply:
 - 1. The Director previously issued a Type A certificate for the subdivision pursuant to subsection (H)(1) of this Section or R12-15-707;
 - 2. Water service is currently available to each lot; and
 - 3. There are no material changes to the plat for which the certificate was issued, according to the criteria in R12-15-708.
- L.** An owner of six or more lots in the Pinal AMA is not required to obtain a certificate if all of the following apply:
 - 1. A plat for the subdivision was recorded before October 1, 2007;

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2. There have been no material changes to the plat according to the criteria in R12-15-708, since October 1, 2007;
 3. The proposed municipal provider was designated as having an assured water supply when the plat was recorded, but is no longer designated as having an assured water supply; and
 4. Water service is currently available to each lot.
- M.** A person may request a letter stating that the owner is not required to obtain a certificate pursuant to subsection (J), (K), or (L) of this Section by submitting an application on a form prescribed by the Director and attaching evidence that the criteria of subsection (J), (K), or (L) are met. Upon receiving an application pursuant to this subsection, the Director shall:
1. Review the application pursuant to the licensing time-frame provisions in R12-15-401.
 2. Determine whether the criteria of subsection (J), (K), or (L) of this Section are met.
 3. If the Director determines that the criteria of subsection (J) of this Section are met, issue a letter to the applicant and the Arizona Department of Real Estate stating that the current owner is not required to obtain a certificate.
 4. If the Director determines that the criteria of subsection (K) or (L) of this Section are met, issue a letter to the applicant and the Arizona Department of Real Estate stating that the current owner and any future owners are not required to obtain a certificate.

R12-15-722. Consistency with Management Goal

- A.** For the Phoenix, Prescott, or Tucson AMAs, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA in which the proposed use is located for at least 100 years by adding the following:
1. The amount of the groundwater allowance, according to R12-15-724(A), R12-15-726(A), or R12-15-727(A).
 2. The amount of any extinguishment credits pledged to the certificate or designation, according to R12-15-724(B), R12-15-726(B), or R12-15-727(B).
 3. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- B.** The Director shall determine that a proposed groundwater use in the Phoenix, Prescott, or Tucson AMA is consistent with the management goal of the AMA if the volume calculated in subsection (A) of this Section is equal to or greater than the portion of the applicant's estimated water demand to be met with groundwater.
- C.** For a certificate in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA for at least 100 years by adding the following:
1. The amount of the groundwater allowance, according to R12-15-725(A)(1).
 2. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished on or after October 1, 2007, according to R12-15-725(B).
 3. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished before October 1, 2007. The Director shall calculate the amount of the extinguishment credits by multiplying the annual amount of the credits by 100.

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4. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- D. For a certificate in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the AMA if the volume calculated in subsection (C) of this Section is equal to or greater than the portion of the applicant's estimated water demand to be met with groundwater.
- E. For a designation in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the Pinal AMA on an annual basis by adding the following:
 1. The amount of the groundwater allowance, according to R12-15-725(A)(2). If any of the groundwater allowance is not used during a year, the unused groundwater allowance shall not be added to the volume calculated under this subsection for the following year.
 2. The amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished on or after October 1, 2007, according to R12-15-725(B), divided by 100. Extinguishment credits for a grandfathered right that was extinguished on or after October 1, 2007 may be used in any year.
 3. The annual amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished before October 1, 2007. The following shall apply if any of the extinguishment credits are not used during a calendar year:
 - a. If the extinguishment credits were pledged to the designation before October 1, 2007, any extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.
 - b. If the extinguishment credits are pledged to the designation on or after October 1, 2007, any of the extinguishment credits not used during a calendar year shall not be added to the volume calculated under this subsection for the following calendar year, except that if the extinguishment credits were originally pledged to a certificate before October 1, 2007 and are used to support the municipal provider's designation pursuant to R12-15-723(G)(2), any of the extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.
 4. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- F. For a designation in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the Pinal AMA if the annual volume calculated in subsection (E) of this Section is equal to or greater than the portion of the applicant's annual estimated water demand to be met with groundwater.
- G. Upon application, the following volumes of groundwater used by an applicant are considered consistent with the management goal:
 1. If the Director determines that a surface water supply is physically available under R12-15-716 and the volume of the supply actually available during a calendar year is equal to or less than the drought volume for the supply, the volume of groundwater, other than the

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- groundwater that is accounted for under subsection (A), (C), or (E) of this Section, withdrawn within the AMA that, when combined with the available surface water supply, is equal to or less than the drought volume.
- 2. Any volume of groundwater withdrawn within a portion of an AMA that is exempt from conservation requirements under A.R.S. Title 45 due to waterlogging. The Director shall review the application of this exclusion on a periodic basis, not to exceed 15 years.
- 3. Remedial groundwater that is consistent with the management goal according to the requirements of R12-15-729.
- H. An applicant for a certificate of assured water supply for a dry lot subdivision of 20 lots or fewer is exempt from the requirements of this Section.

R12-15-723. Extinguishment Credits

- A. Except as provided in subsection (D) of this Section, the owner of a grandfathered right may extinguish the right in exchange for extinguishment credits by submitting the following:
 - 1. A notarized statement of extinguishment of a grandfathered right on a form provided by the Director;
 - 2. The grandfathered right number;
 - 3. If the right being extinguished is a type 1 non-irrigation grandfathered right or an irrigation grandfathered right, evidence of ownership of the land to which the grandfathered right is appurtenant;
 - 4. If the grandfathered right is located in the Prescott AMA, evidence that all of the following conditions are met:
 - a. The land to which the right is appurtenant has not been and will not be subdivided pursuant to a preliminary plat or a final plat that was approved by a city, town, or county before August 21, 1998; and
 - b. The land to which the right is appurtenant is not and will not be the location of a subdivision for which a complete and correct application for a certificate of assured water supply was submitted to the Director before August 21, 1998;
 - 5. If the right being extinguished is an irrigation grandfathered right, evidence that the development of the land to which the right is appurtenant is not completed.; and
 - 6. Any additional information the Director may reasonably require to process the extinguishment.
- B. The Director shall calculate the amount of extinguishment credits pursuant to R12-15-724(B), R12-15-725(B), R12-15-726(B), or R12-15-727(B). The Director shall notify the owner of the amount of extinguishment credits in writing. If the owner is extinguishing only a portion of the right, the Director shall issue a new certificate of grandfathered right for the remainder of the right.
- C. A type 1 non-irrigation grandfathered right or an irrigation grandfathered right may be extinguished in whole or in part. A type 2 non-irrigation grandfathered right may be extinguished only in whole.
- D. The following rights may not be extinguished in exchange for extinguishment credits:

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1. An irrigation grandfathered right that is appurtenant to land that has been physically developed for a non-irrigation use. The Director shall not consider the land to be physically developed until the development is completed.
 2. A type 1 non-irrigation grandfathered right, if the Director determines that the holder is likely to continue to receive groundwater from an undesignated municipal provider for the same use pursuant to the provider's service area right or pursuant to a groundwater withdrawal permit.
 3. A type 2 non-irrigation grandfathered right that was issued based on the withdrawal of groundwater for mineral extraction or processing or for the generation of electrical energy.
 4. On or after January 1, 2025, any grandfathered right that is in the Phoenix, Prescott, or Tucson AMAs.
 5. Any grandfathered right in the Pinal AMA beginning in the first calendar year in which the allocation factor for the extinguishment of a grandfathered right is zero, pursuant to R12-15-725(B)(3) or (4).
 6. A type 1 non-irrigation grandfathered right that was requested to be included by a city or town in the Tucson AMA in the determination made under A.R.S. § 45-463(F).
- E.** The owner of extinguishment credits may pledge the credits to a certificate or to a designation before the certificate or designation is issued by submitting with the application for the certificate or designation a notice of intent to pledge extinguishment credits on a form provided by the Director. The extinguishment credits shall be pledged to the certificate or designation upon issuance of the certificate or designation.
- F.** The owner of extinguishment credits may pledge the credits to a certificate or to a designation after the certificate or designation is issued by submitting a notice of intent to pledge extinguishment credits on a form provided by the Director. The Director shall notify the owner of the extinguishment credits and the certificate holder or designated provider that the credits have been pledged to the certificate or designation.
- G.** Extinguishment credits that have not been pledged to a certificate or designation may be conveyed within the same AMA. Extinguishment credits pledged to a certificate or designation shall not be conveyed to another person, except that:
1. If extinguishment credits are pledged to a certificate that is later assigned or reissued, any unused credits are transferred, by operation of this subsection, to the assigned or reissued certificate. If the certificate is partially assigned or reissued, a pro rata share of the unused extinguishment credits is transferred to each assigned or reissued certificate according to the estimated water demand.
 2. If extinguishment credits are pledged to a certificate for a subdivision that is later served by a designated provider or a municipal provider that is applying for a designation, any unused extinguishment credits may be used to support the municipal provider's designation as long as the municipal provider serves the subdivision and remains designated. If the municipal provider is no longer serving the subdivision or if the municipal provider loses its designated status, any unused extinguishment credits shall

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revert, by operation of this subsection, to the certificate to which they were originally pledged.

- H. The Director shall review a statement of extinguishment of a grandfathered right and a notice of intent to pledge extinguishment credits pursuant to the licensing time-frame provisions in R12-15-401.

R12-15-725.Pinal AMA - Groundwater Allowance and Extinguishment Credits Calculation

- A. The Director shall calculate the groundwater allowance for a certificate or designation in the Pinal AMA as follows:

1. If the application is for a certificate, multiply the applicable allocation factor in the table below for the management period in effect on the date of application by the annual estimated water demand for the proposed subdivision.

MANAGEMENT PERIOD/ DATE OF APPLICATION	ALLOCATION FACTOR
Third	10
Fourth	10
Fifth	5
After Fifth	0

2. If the application is for a designation:
 - a. If the applicant was designated as having an assured water supply as of October 1, 2007:
 - i. Multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service area population shall be determined using the methodology set forth in Section 5-103(D) of the Third Management Plan for the Pinal AMA.
 - ii. Convert the number of gallons determined in subsection (A)(2)(a)(i) into acre-feet by dividing the number by 325,851 gallons.
 - iii. Determine the number of residential lots within plats that were recorded as of October 1, 2007 but not served water as of that date, and to which the applicant commenced water service by January 1, 2010.
 - iv. Multiply the number of lots determined in subsection (A)(2)(a)(iii) of this Section by 0.35 acre-foot per lot.
 - v. Add the volume from subsection (A)(2)(a)(ii) of this Section and the volume from subsection (A)(2)(a)(iv) of this Section.
 - b. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and

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correct application for designation is filed before January 1, 2012, multiply the applicant's service area population as of October 1, 2007 by 125 gallons per capita per day and multiply the product by 365 days. The service area population shall be determined using the methodology in Section 5-103(D) of the Third Management Plan for the Pinal AMA.

- c. If the applicant provided water to its customers before October 1, 2007 but was not designated as having an assured water supply as of that date, and a complete and correct application for designation is filed on or after January 1, 2012, the applicant's groundwater allowance is zero acre-feet.
- d. If the applicant commenced providing water to its customers on or after October 1, 2007, the applicant's groundwater allowance is zero acre-feet.
3. For each calendar year of a designation, the Director shall calculate the volume of incidental recharge for a designated provider within the Pinal AMA and add that volume to the designated provider's groundwater allowance. The Director shall calculate the volume of incidental recharge by multiplying the provider's total water use from any source in the previous calendar year by the standard incidental recharge factor of 4%. A designated provider may apply for a variance from the standard incidental recharge factor by submitting a hydrologic study demonstrating, to the satisfaction of the Director, that the ratio of the average annual amount of incidental recharge expected to be attributable to the designated provider during the management period to the average annual amount of water expected to be withdrawn, diverted or received for delivery by the designated provider for use within its service area during the management period is different than 4%. The hydrologic study shall include the amount of water withdrawn, diverted or received for delivery by the designated provider for use within its service area during each of the preceding five years and the amount of incidental recharge that was attributable to the designated provider during each of those years. The Director may establish a different incidental recharge factor for the designated provider upon such demonstration.
- B.** The Director shall calculate the extinguishment credits for the extinguishment of a grandfathered right in the Pinal AMA as follows:
 1. For the extinguishment of a type 2 non-irrigation grandfathered right, multiply the number of acre-feet indicated on the certificate by the applicable allocation factor as determined under subsection (B)(3) or (B)(4) of this Section.
 2. For the extinguishment of all or part of an irrigation grandfathered right, or all or part of a type 1 non-irrigation grandfathered right, an amount calculated by multiplying 1.5 acre-feet by the number of irrigation acres associated with the extinguished irrigation grandfathered right or the number of acres to which the extinguished type 1 non-irrigation grandfathered right is appurtenant, and then multiply that product by the applicable allocation factor as determined under subsection (B)(3) or (B)(4) of this Section, except that:
 - a. If only a portion of an irrigation grandfathered right or a type 1 non-irrigation

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- grandfathered right is extinguished, the Director shall include in the calculation only those acres associated with the portion of the right that is extinguished; and
- b. If an extinguished irrigation grandfathered right has a debit balance in the corresponding flexibility account established under A.R.S. § 45-467, the Director shall subtract the amount of the debit from the amount of the extinguishment credits.
3. Except as provided in subsection (B)(4) of this Section, in calculating the extinguishment credits for the extinguishment of a grandfathered right under subsection (B)(1) or (B)(2) of this Section, the Director shall use the allocation factor associated with the year in which the grandfathered right is extinguished, as shown in the table below.

Year	Allocation Factor
2007	100
2008	100
2009	100
2010	90
2011	88
2012	86
2013	84
2014	82
2015	80
2016	78
2017	76
2018	74
2019	72
2020	70
2021	68
2022	66
2023	64
2024	62
2025	60
2026	58
2027	56
2028	54
2029	52
2030	50
2031	48
2032	46
2033	44
2034	42
2035	40

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2036	38
2037	36
2038	34
2039	32
2040	30
2041	28
2042	26
2043	24
2044	22
2045	20
2046	18
2047	16
2048	14
2049	12
2050	10
2051	8
2052	6
2053	4
2054	2
After 2054	0

4. If, before January 1, 2055, there is a moratorium on adding new member lands and member service areas in the Pinal AMA pursuant to A.R.S. § 45-576.06(A), in calculating the extinguishment credits for the extinguishment of a grandfathered right under subsection (B)(1) or (B)(2) of this Section, the Director shall use an allocation factor determined as follows:
 - a. If the grandfathered right is extinguished while the moratorium is in effect, the Director shall use the allocation factor associated with the year in which the moratorium first became effective, as shown in the table in subsection (B)(3) of this Section.
 - b. If the grandfathered right is extinguished when the moratorium is no longer in effect, the Director shall use the allocation factor associated with the year determined pursuant to this subsection, as shown in the table in subsection (B)(3) of this Section. The Director shall determine the year as follows:
 - i. Subtract the year in which the moratorium first became effective from the year in which the moratorium ended.
 - ii. Subtract the difference in subsection (B)(4)(b)(i) of this Section from the year in which the grandfathered right was extinguished.